

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK STATE RESTAURANT
ASSOCIATION,

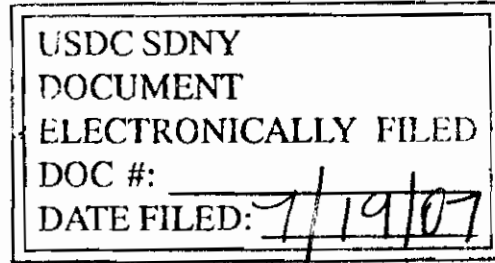
Plaintiff,

-against-

NEW YORK CITY BOARD OF HEALTH,
NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE, and
Thomas R. Frieden, In His Official Capacity
as Commissioner of the New York City
Department of Health and Mental Hygiene,

Defendants.

No. 07-CIV-05710 (RJH)



**MOTION OF CITY AND COUNTY OF SAN FRANCISCO, CITIES OF
PHILADELPHIA, PENNSYLVANIA, BALDWIN PARK, CALIFORNIA, PALO
ALTO, CALIFORNIA AND WEST HOLLYWOOD, CALIFORNIA; COUNTY
OF LOS ANGELES, CALIFORNIA, KING COUNTY, WASHINGTON, AND
MONTGOMERY COUNTY, MARYLAND; NATIONAL LEAGUE OF CITIES,
NATIONAL ASSOCIATION OF COUNTY & CITY HEALTH OFFICIALS,
INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, AND LEAGUE
OF CALIFORNIA CITIES; CALIFORNIA STATE SENATORS ALEX
PADILLA AND CAROLE MIGDEN, NEW YORK STATE ASSEMBLYMAN
FELIX ORTIZ, CHICAGO ALDERMAN EDWARD M. BURKE, AND
WASHINGTON D.C. COUNCILMEMBER PHIL MENDELSON
FOR LEAVE TO FILE BRIEF AS AMICI CURIAE**

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CITY AND COUNTY OF SAN FRANCISCO

The City and County of San Francisco, four additional cities (Philadelphia, Pennsylvania, Baldwin Park, California, Palo Alto, California and West Hollywood, California), three counties (County of Los Angeles, California, King County, Washington, and Montgomery County, Maryland), five state and city legislators (California State Senators Alex Padilla and Carole Migden, New York State Assemblyman Felix Ortiz, Chicago Alderman Edward M. Burke, and Washington D.C. Councilmember Phil Mendelson), the National League of Cities ("NLC"), the National Association of County & City Health Officials ("NACCHO"), the International Municipal Lawyers Association ("IMLA"), and the League of California Cities ("LCC"), respectfully request leave to file the accompanying brief of amici curiae in support of Defendants New York City Board of Health, New York City Department of Health and Mental Hygiene, and Thomas R. Frieden, in his official capacity as Commissioner of the New York City Department of Health and Mental Hygiene (collectively "New York City").

The National League of Cities ("NLC") is the country's largest and oldest organization serving municipal government, with more than 1,600 direct member cities and 49 state municipal leagues that collectively represent more than 18,000 United States communities. Founded in 1924, NLC strengthens local government through research, information sharing, and advocacy on behalf of hometown America.

The International Municipal Lawyers Association is a non-profit, nonpartisan, professional organization consisting of more than 1,400 members comprised of local government entities, including cities and counties, and subdivisions thereof, as represented by their chief legal officers; state municipal leagues; and individual attorneys who represent municipalities, counties, and other local government entities.

The League of California Cities is an association of 478 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys from all regions of the

State. The Committee monitors litigation of concern to municipalities, and identifies those cases that are of statewide – or nationwide – significance. The Committee has identified this case as being of such significance.

Amici have a substantial interest in the outcome of this case. Rising obesity rates are a matter of urgent concern in states, counties, and cities across the country. The cities and counties on this brief are on the front lines in the battle against the obesity epidemic. Many of them have introduced or are considering introducing nutrition disclosure legislation similar to New York City's Regulation 81.50. The legislators on this brief have all sponsored such legislation. An adverse ruling in this case would undermine pending legislation in state and local legislatures across the country.

The City and County of San Francisco has examined the brief of Defendants and is familiar with the issues involved in this case. The proposed brief of amici curiae contains additional argument regarding the historic police power of state and local governments to regulate in the public health arena, the science demonstrating that nutrition information disclosure is sound public policy, and the potential practical consequences of this Court's ruling.

Both parties have consented to the filing of this brief. Accordingly, amici respectfully request that the Court grant their motion to file this brief in support of Defendants.

DATED: July 10, 2007

Respectfully submitted,

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